

The Berryville Town Council held one public hearing on December 14, 2006 at 5:30 p.m. in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

The following were present:

Council -	Richard G. Sponseller, Mayor Harry Lee Arnold, Jr., Recorder Wilson Kirby Lawrence Russell, III Allen Kitselman
Absent-	Barry Nicholson
Staff -	Keith R. Dalton, Town Manager Christy Dunkle, Asst. Town Mgr/Town Planner Chief Neal White, Police Department Celeste Heath, Town Clerk
Press -	Winchester Star: Bob Igoe

Public Hearing- Annexation Area B-8

Ms. Dunkle said that public hearing notices ran on Saturday, December 2 and Saturday, December 9 in the Winchester Star. Adjacent property notices were mailed via first class mail on December 5, 2006. No comments were received in the Planning office.

She said that due to staff error, not including the enclosed ordinances in the packets for the November 14, 2006 meeting, a special meeting was needed to adopt the three ordinances related to Annexation Area B-8.

Mayor Sponseller opened the public hearing.

Kenneth D. Liggins of 206 Josephine Street said he doesn't want to speak until he knows what was omitted from the packet. He asked if it is fair to say that the ordinance that was wrong on November 14 was the same one that was wrong when Josephine Street was annexed in 1989.

Mr. Dalton explained that the ordinances were not enclosed in the council packets for the November 14, 2006 meeting. He added that this has no bearing on any previous annexation.

Mr. Liggins asked when the boundary line was removed or changed to remove Milton Valley Cemetery.

Mr. Dalton explained that in previous annexations, the cemetery was not annexed. Milton Valley Cemetery is part of this annexation because the business park behind it is essentially complete and is being annexed. This would leave Milton Valley as a "donut hole" amongst land that will be within the Town of Berryville if it isn't annexed.

Mr. Liggins said that according to Virginia code 15-1 10.57 the town needs to annex the whole thing and not sections.

Mr. Dalton said that the court has spoken on that matter.

Mayor Sponseller said that this matter is under litigation, so the council cannot discuss it further at this time.

Mayor Sponseller asked for additional public or council comment. There was none.

It was moved by Council member Arnold, seconded by Council member Kirby that the Council of the Town of Berryville approve Annexation B-8 as attached, to become effective January 1, 2007.

Recorded Vote: Aye – Richard G. Sponseller, Mayor
 Harry Lee Arnold, Jr., Recorder
 Wilson Kirby
 Allen Kitselman
 Lawrence Russell, III

Nay – None

Absent – Barry Nicholson

It was moved by Council member Kitselman, seconded by Council member Kirby that the Council of the Town of Berryville approve the application of Town Zoning to Annexation Area B-8 as attached, to become effective January 1, 2007.

Recorded Vote: Aye – Richard G. Sponseller, Mayor
 Harry Lee Arnold, Jr., Recorder
 Wilson Kirby
 Allen Kitselman
 Lawrence Russell, III

Nay – None

Absent – Barry Nicholson

It was moved by Council member Arnold, seconded by Council member Kirby that the Council of the Town of Berryville approve the application of Town ward boundaries to Annexation Area B-8 as attached, to become effective January 1, 2007.

Recorded Vote: Aye – Richard G. Sponseller, Mayor
 Harry Lee Arnold, Jr., Recorder
 Wilson Kirby
 Allen Kitselman
 Lawrence Russell, III

Nay – None

Absent – Barry Nicholson

**BERRYVILLE TOWN COUNCIL
MOTION FOR APPROVAL OF
ANNEXATION B-8**

Date: December 14, 2006

Motion By: Harry Lee Arnold, Jr.

Second By: Wilson Kirby

I move that the Council of the Town of Berryville approve Annexation B-8 as attached, to become effective January 1, 2007.

VOTE:

Aye - Richard G. Sponseller, Mayor
Harry Lee Arnold, Jr., Recorder
Wilson Kirby
Allen Kitselman
Lawrence Russell, III

Nay - None

Absent - Barry Nicholson

ATTEST:

Harry Lee Arnold, Jr., Recorder

ANNEXATION ORDINANCE - 2006/2007
AREA B-8

AN ORDINANCE TO PROVIDE FOR THE EXTENSION OF THE CORPORATE LIMITS OF THE TOWN OF BERRYVILLE, VIRGINIA, PURSUANT TO THE PROVISION OF ARTICLE 2, CHAPTER 32, OF TITLE 15.2 OF THE CODE OF VIRGINIA, BY ANNEXATION OF CERTAIN TERRITORY IN CLARKE COUNTY, VIRGINIA; TO DEFINE THE METES AND BOUNDS AND AREA OF THE TERRITORY TO BE ANNEXED; TO SET FORTH THE BASIS UPON WHICH SUCH ANNEXATION IS MADE; AND TO EFFECT THE ANNEXATION OF SUCH TERRITORY BY THE TOWN OF BERRYVILLE.

BE IT ORDAINED, by the Council of the Town of Berryville, Virginia:

DECLARATION OF ANNEXATION

The Council of the Town of Berryville, a Municipal Corporation of the Commonwealth of Virginia, hereby declares that the Town desires to annex certain territory in Clarke County, Virginia, adjacent to the corporate limits of the Town, pursuant to the Agreement Defining Annexation Rights between the Town of Berryville and County of Clarke.

AREA TO BE ANNEXED

Attached herewith as Exhibit A is a map of the Town of Berryville and vicinity indicating generally the existing Town borders and the area to be annexed, including Milton Valley Cemetery, Green Hill Cemetery, and business park sites, residential sites, and vacant areas, designated on such map as Areas One, Two, Three and Four. The metes and bounds of the area proposed to be annexed, identified as Area B-8, is set forth on attached Exhibit B. The area hereby annexed is estimated to contain approximately 176.0 acres with an estimated population of eighteen (18) people as of the effective date of said annexation as provided herein.

PROCEEDINGS FOR ANNEXATION

On November 24, 1987, the Town of Berryville and Clarke County entered into an Agreement Defining Annexation Rights pursuant to Article 1.1, Chapter 10 of Title 15.1 (now Article 2, Chapter 32, of Title 15.2). The Agreement was thereafter filed with the Commission on Local Government. Following the conduct of a site visitation and public hearing, the Commission on Local Government issued its report on the proposed annexation agreement on or about November 17, 1988. On or about December 29, 1988, the Town of Berryville and Clarke County adopted the Agreement Defining Annexation Rights, as amended following the report of the Commission on Local Government. Pursuant to said Agreement, the Town of Berryville annexed Area A by

Ordinance effective January 1, 1989. The Town of Berryville subsequently annexed Area B-1, containing approximately 7.691 acres with an estimated population of zero (0) people, by Ordinance effective January 1, 1993; Area B-2, containing approximately 8.965 acres with an estimated population of eighteen (18) people, by Ordinance effective January 1, 1994; Area B-3, containing approximately 63.0898 acres with an estimated population of one hundred six (106) people, by Ordinance effective January 1, 1996; Area B-4, containing approximately 10.5316 acres with an estimated population of eleven (11) people; and Area B-5, containing approximately 196.5 acres with an estimated population of six (6) people, by Ordinance effective January 1, 2000; Area B-6, containing approximately 114.38 acres with an estimated population of three (3) people, by Ordinance effective January 1, 2003; and Area B-7, containing approximately 41.81 acres with an estimated population of zero (0) people, by Ordinance effective January 1, 2005.

On or about December 4, 2006, the Town of Berryville notified the governing body of Clarke County of the Town's intent to annex Area B-8, as such area is set forth in Exhibit A attached hereto. The Berryville Town Council held a public hearing on the proposed annexation of Area B-8 on December 14, 2006, which public hearing was duly advertised in the Winchester Star, a newspaper of general circulation in Clarke County, for two (2) successive weeks.

TERMS AND CONDITIONS

The annexation of Area B-8 territory will be assimilated into the Town's government and administration organization upon the effective date of annexation. The Town will provide the same level of general governmental and municipal service for the annexed area as are provided for the present Town within the framework of the Town's Charter and the general laws, and in accordance with the ordinance and regulations adopted and in force.

EFFECTING ANNEXATION

Pursuant to the Agreement Defining Annexation Rights entered into between the Town of Berryville and Clarke County, Virginia, the Town of Berryville hereby annexes that territory of Clarke County identified as Annexation Area B-8, as set forth on attached Exhibits A and B. Such annexation shall be effective as of 12:01 a.m., on January 1, 2007. The Town of Berryville further directs that this Ordinance be provided to the Clerk of the Circuit Court for Clarke County, and be recorded among the land records of Clarke County, Virginia.

EFFECTIVE DATE OF ORDINANCE

This Ordinance shall be in force and effective as of 12:01 a.m., January 1, 2007.

APPROVED this _____ day of _____, 2006.

SIGNED: _____
Richard G. Sponseller, Mayor

I hereby certify that the foregoing Ordinance was duly adopted by the Council of the Town of Berryville, Virginia, in a meeting duly assembled _____ 2006.

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

CERTIFICATE

COMMONWEALTH OF VIRGINIA,
TOWN OF BERRYVILLE, CLARKE COUNTY, to wit:

I, Richard G. Sponseller, Mayor of the Town of Berryville, a Virginia Municipal Corporation, hereby certify that HARRY LEE ARNOLD, JR., whose name is signed to the foregoing Certificate, is and was at the time of signing the same, Town Recorder of the Town of Berryville, Virginia, duly qualified; that his attestation is in due form of law; that his signature is genuine, and all his official acts entitled to full faith and credit.

Given under my hand, this _____ day of _____, 2006.

SIGNED: _____
Richard G. Sponseller, Mayor
Town of Berryville, Virginia

COMMONWEALTH OF VIRGINIA,
TOWN OF BERRYVILLE, CLARKE COUNTY, to wit:

I, Harry Lee Arnold, Jr., Town Recorder of the Town of Berryville do hereby certify that RICHARD G. SPONSELLER, whose name is signed to the foregoing Certificate, is, and was at the time of signing same, Mayor of the Town of Berryville, Virginia, duly qualified.

Given under my hand, this _____ day of _____, 2006.

SIGNED: _____

Harry Lee Arnold, Jr., Recorder
Town of Berryville, Virginia

COMMONWEALTH OF VIRGINIA,
TOWN OF BERRYVILLE, CLARKE COUNTY, to wit:

I, the undersigned, a Notary Public in and for the aforesaid
Jurisdiction do hereby certify that Richard G. Sponseller
and Harry Lee Arnold, Jr., whose names are signed to the
foregoing instrument, bearing date of _____,
2006 have appeared before me and acknowledged the same in my
aforesaid jurisdiction.

Given under my hand this _____ day of
_____, 2006.

Notary Public

My Commission Expires: _____

**BERRYVILLE TOWN COUNCIL
MOTION FOR APPROVAL OF
APPLICATION OF TOWN ZONING TO
ANNEXATION AREA B-8**

Date: December 14, 2006

Motion By: Allen Kitselman

Second By: Wilson Kirby

I move that the Council of the Town of Berryville approve application of Town Zoning to Annexation Area B-8 as attached, to become effective January 1, 2007.

VOTE:

Aye - Richard G. Sponseller, Mayor
Harry Lee Arnold, Jr., Recorder
Wilson Kirby
Allen Kitselman
Lawrence Russell, III

Nay - None

Absent - Barry Nicholson

ATTEST:

Harry Lee Arnold, Jr., Recorder

ORDINANCE APPLYING TOWN OF BERRYVILLE ZONING
TO ANNEXATION AREA B-8

BE IT ORDAINED by the Town Council of the Town of Berryville amend the Zoning Map to apply Town Zoning to Annexation Area B-8 in the following manner:

For the approximate one (1) acre as described above as Area 1, the proposed zoning is DR-4 Detached Residential-4. For the approximate 24 acre area as described above as Area 2, currently zoned Institutional (ITL) by Clarke County, is proposed to be zoned Institutional (ITL) by the Town of Berryville. For the approximate five (5) acre area as described above as Area 3, the zoning currently zoned as DR-1 Detached Residential-1 by Clarke County, the proposed zoning is DR-1 Detached Residential-1.

For the approximate 146 acre area as described above as Area 4, the portion currently zoned Business Park (BP) by Clarke County, is proposed to be zoned Business Park (BP) by the Town of Berryville; the portion currently zoned Institutional (ITL) is proposed to be zoned Institutional (ITL) by the Town of Berryville; the portion currently zoned DR-2 (Detached Residential-2) is proposed to be zoned DR-2 (Detached Residential-2) by the Town of Berryville; and the portion currently zoned DR-4 (Detached Residential-4) is proposed to be zoned DR-4 (Detached Residential-4) by the Town of Berryville.

A Zoning Map showing zoning districts in the Town of Berryville, including zoning in Annexation Area B-8, is attached hereto as Exhibit A.

This ordinance shall become effective beginning January 1, 2007.

SIGNED: _____

DATE: _____
Richard G. Sponseller, Mayor

I hereby certify that the foregoing ordinance was duly adopted by the Town Council of the Town of Berryville, Virginia, in a meeting assembled December 14, 2006.

ATTEST: _____

DATE: _____
Harry Lee Arnold, Jr., Recorder

**BERRYVILLE TOWN COUNCIL
MOTION FOR APPROVAL OF
APPLICATION OF TOWN WARD BOUNDARIES
TO ANNEXATION AREA B-8**

Date: December 14, 2006

Motion By: Harry Lee Arnold, Jr.

Second By: Wilson Kirby

I move that the Council of the Town of Berryville approve application of Town ward boundaries to Annexation Area B-8 as attached, to become effective January 1, 2007.

VOTE:

Aye - Richard G. Sponseller, Mayor
Harry Lee Arnold, Jr., Recorder
Wilson Kirby
Allen Kitselman
Lawrence Russell, III

Nay - None

Absent - Barry Nicholson

ATTEST:

Harry Lee Arnold, Jr., Recorder

WARD BOUNDARY ORDINANCE

AN ORDINANCE ESTABLISHING BOUNDARIES FOR THE DIVISION OF THE TOWN OF BERRYVILLE INTO FOUR WARDS PURSUANT TO SECTION 1.3 OF THE CHARTER OF THE TOWN OF BERRYVILLE, VIRGINIA

WHEREAS, The Charter of the Town of Berryville, Chapter 1, Section 1.3, provides that the Town of Berryville shall be divided into four Wards, and further, that the boundaries of such wards shall be established by the Town Council by Ordinance; and

WHEREAS, The Charter of the Town of Berryville, Chapter 3, Section 3.1 provides, in pertinent part, that the Mayor and Recorder shall be elected from the Town at large, and further that the four Council members shall reside one in each ward of the Town, but shall be elected at large by all of the qualified voters of the Town; and

WHEREAS, federal and/or state constitutional requirements and legislation require that the ward boundaries effect an even distribution of population within a permitted deviation of plus or minus five percent of such population within each such ward; and

WHEREAS, The Town Council of the Town of Berryville finds it necessary to revise the boundaries of the four wards in town to include the one-hundred and seventy-six acres, plus or minus, of the territory of Clarke County, Virginia, identified as Annexation Area B-8, contiguous to the corporate limits of the Town of Berryville, such Annexation effective as of 12:01 a.m. on January 1, 2007;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Town of Berryville, that the boundaries of the four Wards of the Town of Berryville shall be, and hereby are established as set forth herein following and as set forth on the map of the Town of Berryville attached hereto (Exhibit A):

WARD ONE (1): All that property contained herein: beginning at the northeastern corner of the corporate limits and extending southward along the corporate limits to Business Route 7 (Main Street) then extending west along the northern side of Main Street to the corporate limits on the southern side of Main Street at the rear property lines of lots fronting on the east side of Blue Ridge Street then crossing Main Street and extending south along said property lines to the northeastern side of Jack Enders Blvd. then extending in a northerly direction along the northeastern side of Jack Enders Blvd. to East Main Street then extending west along the northern side of Main Street to First Street then extending north along the east side of First Street to Liberty Street and extending west along the north side of Liberty Street in a westerly direction to Second Street and

extending north along the east side of Second Street to Cameron Street and extending west along the north side of Cameron Street to Page Street and extending south along the west side of Page Street to Liberty Street and extending in a westerly direction along the north side of Liberty Street to Church Street and extending in a northerly manner along the east side of Church Street to Bundy Street then extending west along the north side of Bundy Street to Route 340 (Buckmarsh Street) then extending north along the east side of Buckmarsh Street to the corporate limits then extending along the corporate limits and the Bypass Route 7 to close the loop at the northeastern corporate boundary.

WARD TWO (2): All that property contained herein: beginning at the corporate boundary at the intersection of Church Street and Route 340 (Buckmarsh Street) and extending north along the east side of Buckmarsh Street to Swan Avenue the extending east along the south side of Swan Avenue to Church Street then extending north along the east side of Church Street to Liberty Street then extending east along the south side of Liberty Street to Page Street then extending north along the east side of Page Street to Cameron Street then extending east along the south side of Cameron Street to Second Street then extending south along the west side of Second Street to Liberty Street then extending east along the south side of Liberty Street to First Street then extending south along the west side of First Street to Business Route 7 (Main Street) then extending east along the south side of Main Street to Jack Enders Blvd. then extending in an southeastern direction along the west side of Jack Enders Blvd. to the corporate limits and then proceeding along the corporate boundary along the southern boundary of the Town to close the loop south of the intersection of Church Street and Buckmarsh Street.

WARD THREE (3): All that property contained herein: beginning at the southwestern corner of the corporate limits and extending generally in a northerly direction along the corporate limits to Business Route 7 (Main Street) then extending east along the south side of Main Street to Dorsey Street then extending north along the east side of Dorsey Street to Treadwell Street then extending east along the south side of Treadwell Street to Smith Street then extending south along the western side of Smith Street to Academy Street then extending east along the south side of Academy Street to Route 340 (Buckmarsh Street) extending north along the east side of Buckmarsh Street to Bundy Street then extending east along the south side of Bundy Street to Church Street then extending south along the west side of Church Street to Swan Avenue then extending west along the north side of Swan Avenue to Buckmarsh Street then extending south along the west side of Buckmarsh Street to the corporate limits then extending west to close the loop

with the southwestern corner of the corporate limits.

WARD FOUR (4): All that property contained herein: beginning at the northwestern corner of the corporate limits and running east along the corporate limits parallel with Bypass Route 7 then extending south then east along the corporate limits to Route 340 (Buckmarsh Street) then extending along the western side of Buckmarsh Street to Academy Street then extending west along the north side of Academy Street to Smith Street then extending north along the east side of Smith Street to Treadwell Street then extending west along the north side of Treadwell Street to Dorsey Street then extending south along the western side of Dorsey Street to Business Route 7 (Main Street) then extending west along the south side of Main Street to the corporate limit and then closing the loop by extending north to the north western corner of the corporate limits.

Approved this 14th day of December, 2006, to be effective as of 12:01 a.m. on January 1, 2007.

SIGNED: _____

Richard G. Sponseller, Mayor

I hereby certify that the foregoing ordinance was duly adopted by the Town Council of the Town of Berryville, Virginia, in a meeting assembled December 14, 2006.

ATTEST: _____

Harry Lee Arnold, Jr., Recorder

There being no further business, on motion by Council member Arnold, seconded by Council member Kitselman and passed by voice vote, the Council meeting was adjourned at 5:47 p.m.

Richard G. Sponseller, Mayor

Harry Lee Arnold, Jr., Recorder